

10/555,921

**REMARKS**

The Applicant thanks the Examiner for the telephone interview held March 3, 2010 during which proposed amendments specifically to independent claims 13, 25 and 26 were discussed. During the interview the Examiner indicated that the discussed proposed claim amendments would most likely not place the claims in better condition for allowance. However, the Examiner noted that upon review of the claims as filed on November 5, 2009 one of the features of independent claim 26 may have been too broadly considered. The Examiner believed that the specific claimed feature may warrant removal of the finality of the official action mailed November 27, 2009 as it thought to be distinct from the teachings of the cited references. The Examiner suggested filing an after final amendment highlighting this distinctive feature and requesting withdrawal of the rejections made in view of the references.

In view of the above the Applicant respectfully requests consideration of the above claim amendments and following remarks. The Applicant further requests withdrawal of the rejections based specifically on the reference of Callan et al. '038 (U.S. Publication No. 2003/0132038) and removal of the finality of the official action November 27, 2009.

Claims 13-16, 20 and 22-27 are rejected, under 35 U.S.C. § 102(e), as being anticipated by or in the alternative, under 35 U.S.C. § 103(a) as obvious over Callan et al. '038. The Applicant acknowledges and respectfully traverses the raised rejections in view of the following remarks.

Callan et al. '038 relates to a lift truck 10 comprising of the front and rear sections 11, 12 which are pivotally connected to each other by a vertical pivot 18 (paragraph [0019]). The rear section 11 of the lift truck 10 comprises a pair of rear wheels 13, 14, a cab 15 having a seat 16, a steering control 17, pedals and other controls for driving the truck and operating the lift device. The rear section 11 also includes a drive means for the truck such as battery power or an internal combustion engine (paragraph [0018]). The front section 12 of the lift truck 10 has

3670-1057 AM

- 5 -

10/555,921

a pair of front wheels 21, 22 and an upright mast 19 which carries a pair of lifting forks 20 (paragraph [0020]).

As taught by Callan et al. '038 in Fig. 1, the steering control 17 of the rear section 11 of the lift truck 10 is located directly over the vertical pivot 18. Although the vertical pivot 18 is not specifically shown in this figure, the vertical pivot 18 is taught to connect the rear section 11 and the front section 12 of the lift truck 10. Since the mast 19 and the front wheels 21, 22 are considered to constitute a portion of the front section 12 and these are seen to be directly adjacent the steering control 17 of the rear section 11, the Applicant suggests that the vertical pivot 18 is located directly below the steering control 17 of the rear section 11.

Because of the above configuration of the rear and front sections 11, 12 and the vertical pivot 18, specifically the vertical alignment of the steering control 17, the vertical pivot 18 and a portion of the front section 12, the front section can only pivot at most 90° either side of a straight ahead position, relative to the rear section (Fig. 3 and paragraph [0009]). The Applicant asserts that the claims of the application are distinct from the teachings of Callan et al. '038 as the reference *fails* to teach a fork lift truck comprising the claimed features of a lift truck body having steering controls for turning a lift mechanism about a vertically extending pivot assembly. The fork lift truck further comprises the claimed feature of an arm that extends *from* the lift truck body and has a remote end that is coupled to the vertically extending pivot assembly.

This claimed arrangement of features can clearly be seen in Fig. 2 of the application, which shows the lift truck body 12 comprising the steering controls 24. The arm 50 is shown to extend from the lift truck body 12 such that the vertically extending pivot assembly 52, which is coupled to the remote end of the arm 50, is spaced from the lift truck body 12. Because of the claimed arrangement, the lift mechanism 14 is capable of being pivoted about the pivot assembly 52 with respect to the truck lift body 12 to a much greater degree than that taught by Callan et al. '038.

3510-10257 AM

10/555,921

In order to emphasize the above noted distinctions between the presently claimed invention and the applied art, independent claims 13 and 25 of this application have been amended similarly to the recitation of the features of independent claim 26 which recites "an arm (50) extends from the lift truck body (12) and has a remote end coupled to a vertically extending pivot assembly (52), the lift truck body (12) having steering controls (24) for turning the lift mechanism (14)". Such features are believed to clearly and patentably distinguish the presently claimed invention from all of the art of record, including the applied art.

As the above limitation was recited in claim 26 of the response filed November 5, 2009 and is thought to be distinctive from the teachings of the cited reference of Callan et al. '038 the Applicant believes that the requested withdrawal of the rejections based y on Callan et al. '038 and removal of the finality of the official action November 27, 2009 is appropriate. If any further amendment to this application is believed necessary to advance prosecution and place this case in allowable form, **the Examiner is courteously solicited to contact the undersigned representative of the Applicant to discuss the same.**

Next, claim 21 is rejected, under 35 U.S.C. § 103, as being unpatentable over Callan et al. '038 in view of Hagin et al. '020 (U.S. Patent No. 4,778,020). The Applicant acknowledges and respectfully traverses the raised obviousness rejection in view of the above amendments and the following remarks.

The Applicant acknowledges that the additional reference of Hagin et al. '020 may arguably relate to the features indicated by the Examiner in the official action. Nevertheless, the Applicant respectfully submits that the combination of the base reference of Callan et al. '038 with this additional art of still fails to in any way teach, suggest, disclose or remotely hint at the above distinguishing features of the presently claimed invention. As such, all of the raised rejections should be withdrawn at this time in view of the above amendments and remarks.

In view of the foregoing, it is respectfully submitted that the raised rejection(s) should be

30/10-10:27 AM

- 7 -

RECEIVED  
CENTRAL FAX CENTER

MAR 05 2010

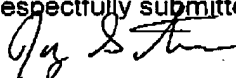
10/555,921

withdrawn and this application is now placed in a condition for allowance. Action to that end, in the form of an early Notice of Allowance, is courteously solicited by the Applicant at this time.

The Applicant respectfully requests that any outstanding objection(s) or requirement(s), as to the form of this application, be held in abeyance until allowable subject matter is indicated for this case.

In the event that there are any fee deficiencies or additional fees are payable, please charge the same or credit any overpayment to our Deposit Account (Account No. 04-0213).

Respectfully submitted.



Jay S. Franklin, Reg. No. 54,105

Customer No. 020210

Davis &amp; Bujold, P.L.L.C.

112 Pleasant Street

Concord, NH 03301-2931

Telephone 603-226-7490

Facsimile 603-226-7499

E-mail: [patent@davisandbujold.com](mailto:patent@davisandbujold.com)

3/5/10 10:57 AM

- 8 -